IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6541 of 1988

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

DIVISIONAL CONTROLLER

Versus

CHITUBHAI P PATEL

Appearance:

1. Special Civil Application No. 6541 of 1988

MR HARDIK C RAWAL for Petitioner No. 1

MR MUKESH H RATHOD for Respondent No. 1

MR NIRDOSH H RATHOD for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 31/08/2004

ORAL JUDGEMENT

1. The petitioner Corporation, by way of this petition, has challenged the judgment and award passed by the Labour Court, Surat in Reference (LCS) No.159 of 1987 whereby the order of dismissal was substituted with the penalty of two increments without future effect and reinstatement with continuity of service without back

wages.

2. Mr.Raval, learned counsel appearing for the petitioner Corporation has submitted that in view of the fact that the petitioner has not only reused the tickets which have been issued earlier, but has tried to collect the fare which has resulted into loss to the Corporation, more particularly a group of 47 passengers was issued the tickets which has been given to one person without any panch and the purpose was to reissue the same during the course of the said journey.

3. The Labour Court, having exercised the powers under Section 11-A of the Industrial Disputes Act, 1947, has substituted the penalty of withholding of two increments without future effect and has reinstated the workman with continuity of service. The Labour Court was justified in exercising the powers under Section 11-A of the Act, but it would have been just and proper if the Labour Court have exercised its powers by passing the order withholding two increments with future effect instead of withholding two increments without future effect.

4. Under these circumstances, the award of the Labour Court is modified to the effect that the petitioner is directed to withhold two increments of the respondent workman with future effect instead of withholding two increments without future effect. Rest of the award of the Labour shall stand confirmed.

5. In view of the above, this petition is partly allowed. It is clarified that since the respondent is already reinstated with continuity of service, the question of reinstatement with continuity of service does not survive. The penalty of stoppage of two increments with future effect will be imposed upon the respondent workman. The respondent workman also will not be entitled for any back wages.

Rule is made absolute to the aforesaid extent with no order as to costs.

(K.S.Jhaveri,J)

(pathan)